



**National Trust *for*
Historic Preservation**
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National Register Determination of Eligibility for Nantucket Sound

The attached document provides another example of the crucial role of the Keeper of the National Register in resolving disputes about National Register eligibility.

As described in the attached Determination of Eligibility, the disagreement in this case arose in the context of consultation under Section 106 of the National Historic Preservation Act for the proposed Cape Wind Energy Project. The Minerals Management Service (the lead federal agency) took the position that Nantucket Sound was not eligible for the National Register. The State Historic Preservation Office disagreed, as did the Mashpee Wampanoag Tribe, and the Wampanoag Tribe of Gay Head (Aquinnah). Ultimately, the Keeper of the National Register concluded that Nantucket Sound *is* eligible for the National Register, under all four criteria.

The proposed revisions to the National Register regulations would enable the federal agency to withhold a referral to the Keeper under these circumstances.



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

IN REPLY REFER TO:

January 4, 2010

2280

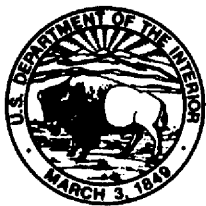
To: Christopher E. Horrell
MMS Federal Preservation Officer
1201 Elmwood Park Blvd.
New Orleans, LA 70123

The National Park Service wishes to inform you of the Keeper of the National Register's determination pursuant to the National Historic Preservation Act, as amended, and Executive Order 11593 in response to your request for a determination of eligibility for inclusion in the National Register of Historic Places. Our determination appears on the enclosed material.

As you know, your request for our professional judgment constitutes a part of the Federal planning process. We urge that this information be integrated into the National Environmental Policy Act analysis and the analysis required under section 4(f) of the Department of Transportation Act, if this is a transportation project, to bring about the best possible program decisions.

This determination does not serve in any manner as a veto to uses of property, with or without Federal participation or assistance. The responsibility for program planning concerning properties eligible for the National Register lies with the agency or block grant recipient after the Advisory Council on Historic Preservation has had an opportunity to comment.

Attachment



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

IN REPLY REFER TO:

DETERMINATION OF ELIGIBILITY NOTIFICATION

National Register of Historic Places
National Park Service

Name of Property: Nantucket Sound

Location: Nantucket Sound

State: Massachusetts

Request submitted by: Christopher E. Horrell, MMS Federal Preservation Officer, 1201 Elmwood Park Blvd., New Orleans, LA 70123

Date received: 11/18/09

Additional information received

Opinion of the State Historic Preservation Officer:

☒ Eligible

☐ Not Eligible

☐ No Response

☐ Need More Information

Comments:

The Keeper of the National Register of Historic Places has determined that this property is:

☒ Eligible

☐ Not Eligible

Applicable criteria: A, B, C, D

Comment: See attached

Caral D. Shull

Keeper of the National Register

Date: 1/04/2010

WASO-28

**The United States Department of the Interior
National Park Service**

**National Register of Historic Places
Determination of Eligibility Comment Sheet**

Property Name: Nantucket Sound, Massachusetts

Project: Cape Wind Energy Project

Keeper of the National Register's Determination: Eligible under Criteria A, B, C, and D

Introduction

On November 18, 2009, the Minerals Management Service (MMS), United States Department of the Interior, submitted a request for a determination of National Register eligibility (DOE) for Nantucket Sound to the Keeper of the National Register of Historic Places (Keeper), pursuant to Federal regulations 36 CFR Part 800.4 and 36 CFR Part 63. The MMS request for a DOE is limited to Nantucket Sound itself and does not include any identified sites on Cape Cod, Martha's Vineyard, or Nantucket Island. The request for a DOE stems from MMS's review of a proposed project to construct an offshore wind power facility in Nantucket Sound (the Sound). The proposed project calls for 130 wind turbine generators to be arranged in a grid pattern in 25 square miles of Nantucket Sound (Federal waters), just offshore Cape Cod and Martha's Vineyard and Nantucket Island (the Islands).

This request was in response to the lack of agreement between MMS and the Massachusetts State Historic Preservation Officer of the Massachusetts Historical Commission (SHPO), the Mashpee Wampanoag Tribe, and the Wampanoag Tribe of Gay Head (Aquinnah) over whether the Sound is eligible for listing in the National Register of Historic Places (National Register). The SHPO, the Mashpee Wampanoag Tribe, and the Wampanoag Tribe of Gay Head (Aquinnah) have provided written opinions that Nantucket Sound is eligible for the National Register. The SHPO, Ms. Brona Simon, submitted a well-documented opinion, including citations and a bibliography of sources that provides evidence in support of her opinion and the opinion of the tribes. MMS provided a written opinion that the Sound is not eligible for listing in the National Register and additional documentation. In addition to reviewing and carefully considering all the documentation submitted by MMS and others, the National Park Service (NPS) National Register staff conducted a thorough review of sources. Two members of the National Register staff and an NPS regional-office ethnographer also made an onsite visit and consulted extensively with representatives of both Wampanoag tribes.

The Keeper makes determinations of eligibility based on the National Register regulations and criteria as defined in 36 CFR Part 60 and pursuant to 36 CFR Part 63. More detailed guidance on

applying the National Register criteria, which the Keeper uses, is contained in bulletins and other technical guidance available in print and online (www.nps.gov/nr). Guidance on evaluating properties is contained in a number of bulletins including *National Register Bulletin: How to Apply the National Register Criteria for Evaluation*. Guidance on evaluating traditional cultural properties for their eligibility for listing in the National Register is contained in *National Register Bulletin: Guidelines for Evaluating and Documenting Traditional Cultural Properties (TCP Bulletin)*. Related guidance applicable to Nantucket Sound is contained in *National Register Bulletin: Guidelines for Evaluating and Registering Archeological Properties* and *National Register Bulletin: Guidelines for Evaluating and Documenting Rural Historic Landscapes*.

A determination that a property is eligible for the National Register assures that the values that make it significant are considered in the planning of projects in which the Federal Government is involved. In this instance, the Keeper is responsible for making this determination of eligibility, however, final decisions with respect to project implementation rest solely with the Federal agency funding, licensing, or assisting the project, which in this case is MMS.

Summary of Keeper's Determination of Eligibility

Nantucket Sound is eligible for listing in the National Register as a traditional cultural property and as an historic and archeological property associated with and that has yielded and has the potential to yield important information about the Native American exploration and settlement of Cape Cod and the Islands. Although the exact boundary is not precisely defined, this determination answers the question for the area that prompted the request for this determination, the Sound itself. The Sound is eligible as an integral, contributing feature of a larger district, whose boundaries have not been precisely defined, under:

- Criterion A for its associations with the ancient and historic period Native American exploration and settlement of Cape Cod and the Islands, and with the central events of the Wampanoags' stories of Maushop and Squant/Squannit;
- Criterion B for its association with Maushop and Squant/Squannit;
- Criterion C as a significant and distinguishable entity integral to Wampanoags' folklife traditions, practices, cosmology, religion, material culture, foodways, mentoring, and narratives; and,
- Criterion D for the important cultural, historical, and scientific information it has yielded and/or may be likely to yield through archeology, history, and ethnography about access to resources, patterns of settlement, mobility, and land use prior to and after 6,000 years ago as a result of the inundation of the Sound. It is also important for the significant information it provides and can provide about the cultural practices and traditions of the Native Americans of Cape Cod and the Islands in relationship with other peoples since ancient times.

In reaching this determination, the Keeper considered whether Nantucket Sound is a property for the purposes of the National Register, the integrity of the property, and whether the property meets the National Register criteria for evaluation. Starting with the property, as the SHPO stated in her opinion letter, the geographical boundaries of Nantucket Sound have been established by the US Department of Commerce, Coast and Geodetic Survey as follows:

Nantucket Sound is defined as the roughly triangular area of continental shelf that lies between the southern shore of Cape Cod (between Monomoy and Mashpee), and the islands of Martha's Vineyard and Nantucket....Nantucket Sound constitutes a small, shallow marine basin whose edges are formed by the islands of Nantucket, Martha's Vineyard and Monomoy, the submerged shoals associated with these islands, and by the Cape....At its western end, Nantucket Sound merges with Vineyard Sound.

Neither the size of the Sound nor the fact that it is a body of water disqualify it from being found eligible for listing in the National Register. The National Register includes a number of properties that are larger than Nantucket Sound, and although the National Register generally discourages the nomination of natural bodies of water, a number of properties listed in the National Register or determined eligible do include them. Furthermore, the Sound is not merely a body of water. Scientific investigations that verify the oral history and traditions of the Wampanoag tribes have demonstrated that this basin was once exposed land. As evidence recovered from archeological sites to date demonstrates, people were present in the environs of the Sound before water covered the area of the Sound, at a time when it was possible to walk between what is now Cape Cod and the nearby Islands. The land beneath the water has yielded and has the potential to yield further important information regarding Native American exploration and settlement of Cape Cod and the Islands during the historic and precontact periods.

Next, based on multiple sources of evidence, the Sound is part of a larger, culturally significant landscape treasured by the Wampanoag tribes and inseparably associated with their history and traditional cultural practices and beliefs, as well as with the Native American exploration and settlement of Cape Cod and the Islands. Additional documentation is necessary to define the precise boundaries of the district of which the Sound is a contributing part; but the district should include other eligible archeological, historic, and traditional cultural sites and properties in the proximity of the Sound. A number of these sites have been known and documented for some time, and MMS has recently identified others through consultation with the tribes.

The National Historic Preservation Act states that properties of traditional religious and cultural importance to an Indian tribe may be determined to be eligible for inclusion in the National Register. The Act further directs that Federal agencies consult any Indian tribe that attaches religious and cultural significance to such properties. Moreover, 36 CFR Part 800.4(c)(1) directs that Federal agencies "shall acknowledge" the "special expertise" of Native Americans in "assessing the eligibility of historic properties that may possess religious and cultural significance to them."

According to the *TCP Bulletin*, a traditional cultural property is generally one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a

living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. Both Wampanoag tribes emphasize that they believe their people traversed, lived on and buried their dead, and otherwise used the land that is now beneath the waters of the Sound in areas such as Horseshoe Shoal, before the land was submerged. Further, each tribe has maintained a continuous association with and use of the Sound for economic and other purposes such as shell fishing, fishing, making practical and ceremonial objects from species taken from Nantucket Sound, recreation and tourism, and as a central focus of traditional cultural practices and beliefs such as those relating to the Maushop and Squant/Squannit stories, greeting the new day, and for celestial observations.

In making determinations for traditional cultural properties, the *TCP Bulletin* provides two key inquiries: first, whether the property, in this case, the Sound, has an integral relationship to the traditional cultural practices or beliefs, and second, whether the condition of the property is such that the relevant relationships survive. The answer to both of these inquiries is yes. The Sound is integrally related to the traditional cultural practices and beliefs of the Wampanoag tribes. This association is not with any body of water, it is with this one, the Sound. The stories involving the relationship between the Sound and both Wampanoag tribes' defining culture hero, Maushop, and his wife Squant/Squannit, and their family, are well documented beginning hundreds of years ago. The first written account of the Maushop stories dates to the 1600s, when the colonists encountered the Wampanoag tribes in this area and began recording these accounts. Both tribes believe that Maushop created much of the traditional cultural landscape that comprises and encompasses the Sound and its surrounding area. Both tribes have lived on, valued, and used the area in and around the Sound for traditional cultural purposes from what they believe to be time immemorial. The Sound is a key definer of the Wampanoag tribes' place on and relationship with the earth.

As to the second factor, unlike more recently developed areas in the vicinity, the Sound itself maintains a high degree of overall integrity as an integral part of a district whose boundaries have not been precisely defined. Although there are some modern navigational devices such as buoys and some changes to the seabed over time, the Sound remains much as it has for hundreds of years.

Eligibility – NR Criterion A

The Sound is eligible under Criterion A, as part of a district with boundaries that have not been precisely defined. The district is associated with the ancient and historical period Native American exploration and settlement of Cape Cod and the Islands and particularly with two surviving branches of the Wampanoag tribes that existed historically and passed down traditional cultural ways and practices up to the present. Both tribes identify the Sound as a direct link to their ancestral origins and long-standing cultural, religious, and ceremonial practices. The Sound is central to the stories that revolve around Maushop and Squant/Squannit and their family. The Wampanoag tribes believe that Maushop created and shaped much of the traditional cultural landscape that comprises the Sound and its surrounding areas. Both tribes continue to share cultural practices, customs, and beliefs rooted in their common history, which are important in

maintaining their continuing cultural identity. The tribes note that they have traversed, hunted, fished, cultivated, interred their ancestors, and occupied the Sound and its environs. Both tribes transmit and pass down shared cultural practices, customs, and beliefs that are associated with the Sound and the larger district of which it is a part. Each tribe derives its cultural identity from its relationship with the natural environment of the Sound, Cape Cod, and the Islands, including the submerged land under the water of the Sound that they believe was once their home and remains a burial place of their ancestors.

The meaning of “Wampanoag” rendered in English as the phrase “People of the Light or Dawn” has a direct relationship to the juncture of the water and sun rising over the Sound. The tribes emphasize that the Sound plays a central role in their cultural, religious, and ceremonial practices. As the Wampanoag Tribal Historic Preservation Officer says in her September 17, 2009 opinion letter,

We are the Wampanoag People, ‘The People of the First Light or Dawn’, this is how we identify ourselves and how other tribes recognize us. The unobstructed view of this expanse of water, bordered by the south shore of Cape Cod on its north side, by Nantucket on the southern side and Martha’s Vineyard on its western side is of utmost importance to the Wampanoag People. The WTHPO asserts that the eastern vista viewshed is essential to the Wampanoag People for our cultural beliefs, identity and spirituality. The viewshed is one of the places where our People historically had, and continue, to have a connection in practicing our cultural ceremony and traditions.

Resolution 2009-RES-022 of the Mashpee Wampanoag Tribe concurs, “These ceremonial, spiritual and religious practices require an unobstructed view of the sunrise over Nantucket Sound.” These and other supporting statements by the tribes in which they emphasize that Nantucket Sound is a traditional cultural property reflect a high degree of integrity of relationship (as described in the *TCP Bulletin*) between Nantucket Sound and their beliefs and practices.

Eligibility – NR Criterion B

The Sound is eligible under Criterion B for its association with the Wampanoag tribes’ cultural hero, teacher, and giant, Maushop, and his wife Squant/Squannit. Their stories figure prominently in the tribes’ understanding of their ancestral origins and journey. Maushop and his wife Squant/Squannit are traditionally important figures whose roles are equivalent to gods or demigods as specified on page 13 in the *TCP Bulletin*. The narratives involving them and their family have been the subject of a native oral tradition spanning many generations. They are currently, and have been for some time, the focus of an annual pageant by the Wampanoag Tribe of Gay Head (Aquinnah). They also are documented in books and websites related to both tribes. The Maushop narratives have been instrumental in tribal interpretations of the history of the Wampanoag people as a whole and the origins of the landforms that have shaped and are associated with the Sound and the Islands. For example, Maushop is credited with creating Nantucket Island, thereby enclosing the waters and shaping the Sound. These stories are a principal way that the tribes have transmitted their cultural identity and the understanding of their

relationship with the natural environment and forces that shaped the physical and spiritual world inherited from their ancestors.

A number of Euro-American sources have recognized the importance of these narratives to the tribes and recorded them since the period of contact and colonization. Furthermore, recent scholarship has cited these narratives as a part of one of the most cohesive collections of Indian folklore in North America. As noted by ethnohistorian William S. Simmons, who compiled numerous written accounts of the Maushop and Squant/Squannit stories in his 1986 *Spirit of the New England Tribes*, Wampanoag legends involving the giant Maushop rank among “the oldest continually recorded bodies of Indian folklore known in North America.” In this regard, Simmons emphasizes the importance of the fact that the Wampanoags continued to recount these stories throughout the 18th, 19th, and 20th centuries (as they still do today).

Eligibility - NR Criterion C

Nantucket Sound is eligible under Criterion C as a contributing feature of a larger historic and archeological district for which the boundaries have not been precisely defined. In accord with the *TCP Bulletin*, the Sound is a distinguishable entity that forms an integral part of a larger district of traditional cultural, historic, and archeological importance. The Sound is a central element in the Wampanoag tribes’ folklife traditions, practices, cosmology, religion, material culture, foodways, mentoring, and narratives. The traditional cultural significance of the Sound as an historical, symbolic, and sacred central place to both Wampanoag tribes is supported by the opinions of the tribes, by contemporary Wampanoag historical consciousness of important persons, places, and events in recorded oral and written narratives; and by scholars of ethnohistory.

Eligibility – NR Criterion D

The Sound is eligible under Criterion D for the ability to provide significant information about the exploration and settlement of Cape Cod and the Islands. Archeological investigations in the Sound show that the property has yielded and has the potential to yield important information through archeological, ethnographic, and historical studies.

The area that now forms the Sound was once a broad, coastal plain. Archeological evidence documents Native American occupation from the Paleo-Indian (beginning approximately 13,000 years ago) and later periods on Cape Cod and the Islands. Sea level began rising by about 6,000 year ago, so that eventually the entire Sound filled with water. However, many shallow areas in the Sound, such as Horseshoe Shoal, were higher ground that remained exposed for longer periods. This would have allowed Native Americans to use the dry areas of higher elevation and leave a physical record of their presence in these locations for longer periods.

Archeologists believe that they have found only a small number of Paleo-Indian and Early Archaic sites on Cape Cod and the Islands because the once-exposed landforms in the Sound are now submerged. They believe these inundated landforms are likely to be the location of

additional early sites. Prior to the archeological survey work conducted as part of the Cape Wind project, it was unclear whether these early landforms survived, due to inundation and erosion.

Recent sampling projects in the Sound have uncovered new and highly significant additional evidence of intact, ancient, terrestrial soils including preserved wood, charcoal, plants, and seeds. The samples date to the Early to Middle Archaic periods. This verifies that evidence exists of these now inundated precontact landscapes and that this evidence can be studied. Based on the finds to date, and the information in the reports submitted by Public Archaeology Laboratory Inc. (PAL), under contract to Cape Wind Associates, LLC, and the opinion of the SHPO, there is a high likelihood of submerged cultural resources and additional archeobotanical materials in the Sound. Despite any disturbance to the seabed and limited sampling, Horseshoe Shoal yielded highly significant finds, and other areas also have the potential to do so.

The collection of environmental data, such as the wood, charcoal, plants, and seeds recovered from the Sound, is a regular practice in archeological investigation and data recovery. The data is important because it provides a means for defining and understanding the development and use of precontact landscapes through time. For instance, it can provide significant information about the availability of resources and patterns of settlement and mobility in the area of the Sound and its environs and, more broadly, the peopling of North America. It can also provide significant and often rare information about preservation of archeological and archeobotanical resources along drowned coastlines and the adaptation of people to receding coastlines.

Finally, while eligibility as a traditional cultural property can be established without archeological evidence, this information serves to corroborate oral traditions and ethnographic information that the land area under the Sound was exposed thousands of years ago and extended out to Noepe (today, Martha's Vineyard) and that the Wampanoag tribes' ancestors would have been able to utilize the area of the Sound and walk to Noepe. This evidence demonstrates the resilience of a people and their oral traditions over thousands of years.